

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSEPH DICESARE, CARMEN NICOTERA, SR,
CARMEN NICOTERA, JR, DANIEL WELLINGTON,
JACK ENDRYCK, RICHARD ALEXANDER, ROBERT
KORRIE and PETER S. HALLOCK, as Trustees of
the Laborers' Local No. 35 Pension Fund, Defined
Contribution Fund and Health Care Fund,

6:06-CV-335

Plaintiffs,

vs

D & H BLACK TOP CO., INC.,

Defendant.

APPEARANCES:

DAVID A. KLINE, ESQ.
Attorney for Plaintiffs
7136 East Genesee Street
Fayetteville, NY 13066

ROBERT M. CHEVERIE & ASSOCIATES
Attorneys for Plaintiffs
333 East River Drive
East Hartford, CT 06108

DIANE M. MARTIN-GRANDE, ESQ.
Attorney for Defendant
301 Black River Boulevard
Rome, New York 13440

DAVID N. HURD
United States District Judge

OF COUNSEL:

ROBERT M. CHEVERIE, ESQ.

ORDER

Plaintiffs have moved for summary judgment pursuant to Fed. R. Civ. P. 56. There was no opposition. The motion was taken on submit on June 22, 2007.

NOW, therefore, it is

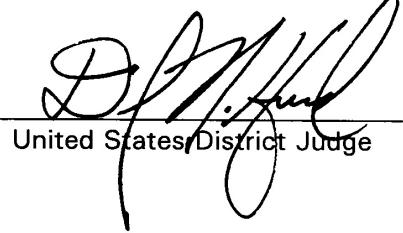
ORDERED, that

1. Plaintiffs' motion is GRANTED;
2. Defendant pay to plaintiffs the amount of \$27,357.50, representing contributions due the Plaintiff Funds, interest, liquidated damages, and attorneys fees;
3. Defendant submit to an audit of its records within thirty (30) days of service of this order upon defendant by first class mail;
4. Should said audit disclose that further amounts are due the Plaintiff Funds, plaintiffs are granted leave to renew this motion for Summary Judgment within ninety (90) days of the completion of said audit; and
5. If no further amounts are due, plaintiffs shall notify this Court for further proceedings consistent with this Order.

The Clerk is directed to file judgment accordingly.

IT IS SO ORDERED.

Dated: June 27, 2007
Utica, New York.



United States District Judge